

Before the
Administrative Hearing Commission
State of Missouri



MARTY LUEPKER d/b/a CARS ON FILM,)	
)	
Petitioner,)	
)	
vs.)	No. 12-1560 RL
)	
DIRECTOR OF REVENUE,)	
)	
Respondent.)	

DECISION

Marty Luepker's application for driveaway license plates is granted.

Procedure

On August 21, 2012, Luepker, doing business as "Cars on Film," filed a complaint appealing the final decision of the Director of Revenue ("Director") denying his application for driveaway license plates. The Director filed his answer on September 14, 2012.

This Commission convened a hearing on the complaint on December 18, 2012. Luepker represented himself. Chandreka Allen represented the Director. The case became ready for decision when the transcript was filed on December 26, 2012.

Findings of Fact

1. "Cars on Film" is the fictitious name of a business owned by Luepker. For nineteen years, the company has been engaged in the business of furnishing motor vehicles for film productions.

2. Luepker's company owns some vehicles that are registered in his or the company's name.

3. When a client requests a vehicle Luepker does not own, he arranges for it to be leased or purchased by the film production company from a private owner or car dealer.

4. Luepker may modify the vehicle to meet the client's requirements, and he then transports the vehicle from the owner's or seller's location to the production locations. Some film productions require vehicles to be transported to several shooting locations.

5. Vehicles "dressed" for a set cannot be modified until shooting is complete. Personal license plates must be removed and are replaced by "prop" plates while the vehicle is used in the production. Any personal effects of the owner, including license plates, are typically secured by the production company's prop department during shooting, and Luepker has no access to them.

6. Luepker is responsible for transporting vehicles between shooting locations until the production is complete. Some vehicles may be moved under their own power, but others must be towed to the set and returned.

7. For the last four or five years, Luepker obtained and used driveaway plates issued by the Department when transporting leased or purchased vehicles transported between production locations. He uses his own license plates when transporting vehicles he owns.

8. Luepker attempted to renew his driveaway license plates in 2012, and the Department denied his application.¹

¹ The record does not disclose when Luepker applied, or when the Director denied his application. Attached to Luepker's complaint is e-mail correspondence between him and the "Dealer Licensing Section" at the Department on August 15 and 17, 2012, referencing a notice of refusal to renew his driveaway license plates and his interest in filing an appeal. Luepker's appeal was filed with this Commission on August 21, 2012. The Director did not object to the timeliness of Luepker's appeal.

Conclusions of Law

This Commission has jurisdiction over appeals from the Director's findings, orders, decisions and assessments. § 621.050.1.² Luepker has the burden of proof. § 621.050.2. We may do whatever the law permits the Director to do, and we must do what the Director must do. *State Bd. of Regis'n for the Healing Arts v. Finch*, 514 S.W.2d 608, 614 (Mo. App., W.D. 1974).

The Director presented no evidence or argument at the hearing, but relies solely on § 301.010(11), which he maintains excludes Luepker's proposed uses from the definition of "driveaway operations," and thus requires denial of his application for driveaway license plates. This is a case of first impression.

The definition in § 301.010(11) states:

(11) "Driveaway operation":

- (a) The movement of a motor vehicle or trailer by any person or motor carrier other than a dealer over any public highway, under its own power singly, or in a fixed combination of two or more vehicles, for the purpose of delivery for sale or for delivery either before or after sale;
- (b) The movement of any vehicle or vehicles, not owned by the transporter, constituting the commodity being transported, by a person engaged in the business of furnishing drivers and operators for the purpose of transporting vehicles in transit from one place to another by the driveaway or towaway methods; or
- (c) The movement of a motor vehicle by any person who is lawfully engaged in the business of transporting or delivering vehicles that are not the person's own and vehicles of a type otherwise required to be registered, by the driveaway or towaway methods, from a point of manufacture, assembly or distribution or from the owner of the vehicles to a dealer or sales agent of a manufacturer or to any consignee designated by the shipper or consignor;

²RSMo 2000. Statutory references are to RSMo Supp. 2012, unless otherwise noted.

Section 301.069 states, in pertinent part:

1. A driveaway license plate may not be used on a vehicle used or operated on a highway except for the purpose of transporting vehicles in transit. Driveaway license plates may not be used by tow truck operators transporting wrecked, disabled, abandoned, improperly parked, or burned vehicles. Driveaway license plates shall only be used by owners, corporate officers, or employees of the business to which the plate was issued. For each driveaway license there shall be paid an annual license fee of forty-four dollars and fifty cents for one set of plates or such insignia as the director may issue which shall be attached to the motor vehicle as prescribed in this chapter. Applicants may choose to obtain biennial driveaway licenses. The fee for biennial driveaway licenses shall be eighty-nine dollars. For single trips the fee shall be four dollars, and descriptive insignia shall be prepared and issued at the discretion of the director who shall also prescribe the type of equipment used to attach such vehicles in combinations.

2. No driveaway license plates shall be issued by the director of revenue unless the applicant therefor shall make application for such plate and shall therein include:

- (1) The business name, business street address, and business telephone number of the applicant;
- (2) The business owner's full name, date of birth, driver's license number or nondriver's license number, residence street address, and residence telephone number;
- (3) The signature and printed name of the business owner or authorized representative of the business presenting such application; and
- (4) A statement explaining what the driveaway license plate or plates will be used for[.]

Luepker testified at length about his company's operations and his proposed use of driveaway license plates. His company is engaged in the business of transporting or delivering vehicles owned by others between the owners' location to shooting locations, and then back again. The owner of the vehicle, whether the film production company or a third party, designates where the vehicle should be delivered and when it should be returned. Such activities clearly meet the definition in § 301.010(11)(c) of a "driveaway operation." Although Luepker also utilizes and transports vehicles he owns, such vehicles are registered by him, and driveaway

plates are not used in their transport. We find Luepker's uncontroverted testimony establishes that his operations meet the definition of "driveaway operations."

Moreover, Luepker's proposed use of driveaway license plates comports with the requirements of § 301.069. He has used and proposes to use the driveaway plates only when transporting clients' vehicles between production locations, or when returning the vehicle to the owner.

Summary

We grant Luepker's application for driveaway licenses plates.

SO ORDERED on August 26, 2013.

\s\ Mary E. Nelson
MARY E. NELSON
Commissioner